IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 6TH JULY, 2007 / 15TH ASHADHA, 1929

WP(C).No. 33656 of 2006(F)

PETITIONER:

P.M.BAVA, AGED 52, S/O. P.K.MOHAMMED,
PROPRIETOR, M/S. SAINA VIDEO VISION,
NO.22/1, SAIDAPET ROAD, VADAPALANI,
CHENNAI-600 002.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY
SRI.E.M.MURUGAN
SMT.THANKOM.G

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY, MINISTRY OF HOME AFFAIRS,
SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR GENERAL OF POLICE,
LAW AND ORDER, STATE OF KERALA,
TRIVANDRUM.

3. THE NODAL OFFICER,
ANTI-PIRACY CELL, POLICE HEAD QUARTERS,
TRIVANDRUM.

4. THE COMMISSIONER OF POLICE,
COCHIN CITY, ERNAKULAM.

BY GOVT. PLEADER SRI.BASANT BALAJI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.33656 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the list containing the DVD and VCD produced and marketed by the petitioner.

Ext.P2: Copy of representation preferred by the petitioner dtd.12.12.2006.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO.33656 OF 2006 - F

Dated this the 6th day of July, 2007

J U D G M E N T

The petitioner is a producer of V.C.Ds. and D.V.Ds. On allegation of violation of Copy Right Act, the petitioner's V.C.Ds. and D.V.Ds. have been seized. The petitioner submits that the seizure is in violation of the Copy Right Act. According to the petitioner, due to ignorance of the Copy Right Act, the concerned Police Officers are invoking wrong procedure in the matter of search and seizure. In the above circumstances, the petitioner has filed this writ petition seeking the following reliefs:-

> "i. Issue a writ, order or direction in the nature of mandamus or other appropriate writ, directing the respondents 2 to 4 herein and police officers under them who are engaged in the activity of search and seizure of infringing versions of VCDs. and DVDs. not to search and seize the VCDs. and DVDs. produced and marketed by the petitioner as per Ext.P1 list and which contain the brand name 'Saina' and which contains the declaration provided under Section 52 A except otherwise than on a written complaint by the petitioner;
>
> ii. Issue a writ, order or direction in the nature of Mandamus or other appropriate writ

> directing the respondents 2 and 3 herein or the concerned among them to take up Ext.P2, hear the petitioner and pass appropriate directions in the light of such hearing after giving notice to the petitioner;
>
> iii. Allow the petitioner to recover the full costs incurred for the institution and conduct of this writ petition from the first respondent."

2. The learned Government Pleader submits that in view of the fact that pursuant to the search and seizure already made, a criminal case has been registered and the matter is pending before the Criminal Court, the petitioner can raise all his contentions before the Criminal Court.

3. While admitting these, the counsel for the petitioner submits that even then the petitioner's second prayer has to be considered. The second prayer is for a direction to the competent among respondents 2 and 3 to consider and dispose of Ext.P2 representation filed by the petitioner in this regard for appropriate directions to the Police Officers conducting search and seizure. Now the petitioner submits that it is the second respondent

who has to dispose of Ext.P2.

4. I have heard the learned Government Pleader also.

5. In the facts and circumstances of the case, I direct the second respondent to consider and dispose of Ext.P2 as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. The petitioner shall also be afforded an opportunity of being heard also before the orders are passed.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007